

Focus on Fairness

1999 APPEAL COMMISSION ANNUAL REPORT



THE APPEAL COMMISSION
THE WORKERS COMPENSATION
ACT OF MANITOBA

Our Mission

To ensure workers and
employers continue to receive a
fair and impartial hearing of
their cases in accordance with
the laws and the rules of
the Commission and that
the decisions of the Appeal
Commission are a fair
and equitable basis for
the case and that
the Commission is a
fair and equitable

Table of Contents

Appeal Commission

Introduction	3
A Message from the Chief Appeal Commissioner	4
About the Appeal Commission	6
The Full-Time Appeal Commissioners	9
The Part-Time Appeal Commissioners	10
1999 Highlights	11
Statistics	13
Service Levels	17

Medical Review Panels

About Medical Review Panels	19
Statistics	20
Service Levels	20



Quality Assurance

The Appeal Commission maintains a consistent and high level of professional conduct, knowledgeable decision making, and accountability, while respecting differing and shared values and perspectives.

Public Integrity

The Appeal Commission is, and is seen to be, an independent body with integrity and rational decision making processes.

Responsive to change

The Appeal Commission evolves in a proactive and creative manner by assuring a process of consultation and consensus around desired change.

Interdependence

All Appeal Commissioners are committed to a high standard of professionalism in their duties to conduct fair and impartial hearings under the Workers Compensation Act and its regulations. As well as their individual responsibilities to become knowledgeable in the matters before them, the commissioners have an individual and

Our Values

collective responsibility to one another to ensure an atmosphere of mutual respect, tolerance of individual differences and opinions, freedom from pre-determined bias and a commitment to look for objective truth and sound decision making.

Respectful Work Environment

Appeal Commissioners interact with staff and colleagues in a manner which promotes mutual respect as well as clarity and understanding of respective roles.



**The Appeal Commission
and Medical Review Panel**

(MRP) activities and statistics are reported separately, as both entities are independent from the Workers Compensation Board of Manitoba (WCB).

Introduction



This report outlines the activities and statistics for both the Appeal Commission and Medical Review Panel (MRP) for the period January 1, 1999 to December 31, 1999 inclusive.

The Appeal Commission is separate and independent from the WCB and is the final level of decision making in the WCB appeal structure. The independence of the Appeal Commission assures that appeals from workers and employers are heard by an impartial panel with no previous involvement or interest in the matters under appeal.

The Appeal Commission was established by legislative amendment to the Workers Compensation Act (the Act) in July, 1990. The amendment created the independent Appeal Commission with exclusive jurisdiction to hear and decide appeals that arise from decisions made by the WCB Review Office or Assessment Review Committee. The Appeal Commission's structure and jurisdiction was maintained following the passage of Bill 59 on January 1, 1992, which implemented major changes to the current Act. The Appeal Commission consists of administrative support staff, and full and part-time appeal commissioners who are appointed by the Lieutenant Governor in Council for specific terms.

Medical Review Panels are established under the Act as a separate and independent process from the WCB and the Appeal Commission. The Medical Review Panel provides an independent medical opinion on a worker's claim. A Medical Review Panel can be convened under section 67(3) of the Act, where the WCB or Appeal Commission uses its *discretion* to seek an independent medical opinion. The Act also allows the *mandatory* convening of a Medical Review Panel under section 67(4), where there is a difference of medical opinion between the WCB's medical officer and the worker's physician which affects the worker's entitlement to compensation.

The Minister responsible for the Act appoints the Medical Review Panel Chair and Alternate Chair. Medical Review Panels set their procedures in accordance with the Act. The independence of the Chairs, and the ability of the employer and worker to select physicians with no previous involvement to sit on a panel, allows for an impartial medical opinion.

The Office of the Registrar is responsible for providing administrative support to both the Appeal Commission and Medical Review Panels.

Message from the Chief Appeal Commissioner

I am pleased to present the annual report of the Appeal Commission for the year 1999.

1999 has been another challenging year for both myself and for the Appeal Commission. The Appeal Commission faced progress and change during the year, integral to the continued success of the organization. One of the most important changes was the relocation of the Appeal Commission to new premises at 220-330 St. Mary Avenue in May. The move was initiated to ensure the continuing independence of the Appeal Commission as a distinct entity of the WCB and, at the same time, to facilitate the necessary expansion of the WCB into space more convenient to their main location.

Most importantly, the move enabled us to significantly enhance our ability to serve our stakeholders. Although smaller by approximately 500 square feet, the functional utility of our space has been significantly enhanced as a result of the move. With careful attention to design, our new space provides long desired features including a second hearing room, a larger medical review panel examination room, and more convenient access to and from the public and administrative areas.

The second hearing room means that the Appeal Commission now has the ability to schedule two hearings concurrently, or a Medical Review Panel (MRP) at the same time as a hearing. This has resulted in far easier scheduling for both appeals and medical review panels and ultimately greater service and choice for our stakeholders.

The larger medical examination room provides greater comfort and privacy for claimants as well as a better working environment for the large number of medical practitioners generally involved in the MRP process.

The design of the public area also results in easy public access to all hearing and examination areas, and at the same time separates the public and administrative spaces. The new design also provides separate access

for staff, physicians and commissioners to the hearing and examination areas. This protects both the integrity and privacy of hearings and medical review panels for the benefit of our clients.

In 1999 the roster of commissioners appointed to the Appeal Commission remained largely unchanged and, as a result, the orientation and training program initiated in 1998 for newly appointed part-time commissioners was successfully continued through 1999. Most of the new part-time commissioners appointed in 1998 are now actively participating in appeals.

The Appeal Commission remains committed to the active involvement of the part-time appeal commissioners to ensure they maintain the knowledge and skill level required to meet their responsibilities. This is done with regard to the current level of appeal activity.

The Appeal Commission also continues to support an active and dynamic system of educational seminars and workshops for both the full and part-time commissioners. In 1999 we provided a series of seminars and workshops on issues relating to workers' compensation and the role of administrative tribunals. Our commitment to continuing education and keeping in touch with emerging issues will continue into 2000.

In 1998 and 1999, the Appeal Commission developed a consensus position on the shared values and principles which should guide our operation. Plans are now underway to enhance this process by developing a "Code of Conduct for Commissioners" which will articulate specific guidelines with respect to conduct in a more formal manner.

The Appeal Commission has continued to monitor and assess our benchmarks for service delivery, to ensure prompt and efficient service to our clients within the context of each claim. Our appeal scheduling initiative, where the parties with a direct interest are contacted to

ensure they have access to file information and are ready and able to proceed, has been successfully continued. This initiative has resulted in a further decrease in our rescheduling rate and in the accompanying administrative costs. In 1997 our rescheduling rate for appeals was 32%, this fell to 16.5% in 1998, and to a very encouraging 10.8% in 1999 as a result of our more flexible approach.

In 1999 the Appeal Commission revised the format of its public information brochure "What you need to know before making an Appeal", to more effectively communicate with and assist our clients to make appeals. This revised pamphlet will be available to our clients in early 2000.

To continue our commitment to service, the Appeal Commission introduced its web-site to coincide with its relocation to new premises in May 1999. Stakeholders can now access copies of public decisions on our web site, through the use of a searchable index by the issue decided.

The web site has decreased administrative costs by reducing the need for paper copies of our public decisions. The response to this initiative has been very positive as a significant number of our stakeholders have indicated access through the web site is more efficient than receiving mailed paper copies or public decisions on disk.

As a result of web site access this year, the Public Decisions on Disk Service has been discontinued. The Appeal Commission continues to routinely provide an original paper copy of the decision to the parties with a direct interest in a matter following a hearing.

On a personal note, I was privileged to be invited to submit a paper and be a speaker at the **1999 International Conference "Best Practices in Administrative Justice"**, hosted by the *Council of Canadian Administrative Tribunals* in October, 1999 at the Vancouver Trade and Convention Centre. The conference attracted a diverse range of participants from administrative tribunals as well as administrative lawyers and the judiciary from across Canada and the world.

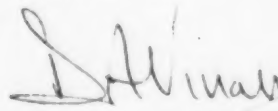
My presentation was entitled "Flexibility within the Administrative Tribunal", which describes and supports the flexibility of tribunal hearings as compared to the courts within the principles of natural justice and fairness. The paper stressed the need to preserve informality in administrative hearings such as ours, ensuring that our process remains a speedy and inexpensive alternative to the courts. The paper was accepted for publication in relevant law journals and will be available in 2000.

A new initiative undertaken in 1999 by the Appeal Commission was a general informational presentation on the Appeal Commission Rules of Procedure as expressed in Regulation 279/91. The audience consisted of a broad group of representatives, advocates and advisors who appear before the Appeal Commission representing both employers and workers. This session took place at an outside location and was well attended. Following the presentation we received many positive comments as well as many requests for similar informational seminars in the future.

I am pleased to report that the Appeal Commission 1998 Annual Report won a communications award at the American Association of Compensation Insurance Funds (AASCIF) 1999 Publications Awards Contest, presented at the 1999 ASSCIF Conference in Albuquerque, New Mexico.

In summary, 1999 was another busy and challenging year for the Appeal Commission. This message would not be complete without a word of thanks to the staff and the commissioners, both full and part-time, for their dedication and commitment to the Appeal Commission throughout the year. In particular, I would like to thank them for their efforts in facilitating a smooth transition during the move to our new premises. My sincere appreciation goes to everyone for their continued support.

Sincerely,



Deborah A. Vivian
S.R.N., O.N.D. (UK),
R.N., B.N. (MB),
LL.B. (MB)



About The Appeal Commission

O In 1990, revisions to the Act [s.s.60.2(1)] established the Appeal Commission as the final level of appeal in the workers' compensation system. The Appeal Commission operates separately and independently from the WCB, and is solely responsible for hearing all appeals from workers and employers concerning WCB Review Office or Assessment Review Committee decisions.

The full and part time appeal commissioners are appointed by the Lieutenant Governor in Council for specific terms. The Act requires that the Appeal Commission consist of one or more appeal commissioners representing the public interest, one of whom is designated as Chief Appeal Commissioner, and one or more appeal commissioners representing workers and employers covered under the Act. The Chief Appeal Commissioner is responsible for the operation and conduct of matters relating to the Appeal Commission as established by the Act. Currently, there are two full time presiding officers representing the public interest, including the Chief Appeal Commissioner, and two full time commissioners representing labour and employer interests respectively.

The part-time commissioners are used where a full-time commissioner is in conflict on a case, to manage workloads, for vacation relief and to maintain their level of expertise. As of December 31, 1999, the Appeal Commission had a roster of 13 part-time commissioners with five representing the public interest and four representing workers and employers respectively.

The Appeal Commission's conduct is governed by Regulation 279/91, The Appeal Commission Rules of Procedure. The Rules of Procedure establish the responsibilities of the Chief Appeal Commissioner, the Registrar and the Appeal Panels to ensure that the integrity of the appeal system is protected and maintained.

A panel of three commissioners, representing public, worker and employer interests respectively, hear appeals. The commissioner representing the public

interest is the Presiding Officer of the panel and is responsible for the conduct of the hearing/review and panel meetings.

Hearings and reviews are conducted fairly and in accordance with the rules of natural justice and procedural fairness.

All parties to an appeal (i.e.: the employer, claimant and their representatives) are given an equal opportunity to present their case.

The Appeal Commission is a non-adversarial forum where parties with a direct interest in a matter provide oral or written evidence to a panel. The ability to ask questions or obtain additional evidence ensures that the Appeal Commission has all the necessary information to reach a fair decision.

The Appeal Commission may hear witnesses from either or both parties, and may subpoena witnesses or evidence that will assist the panel in reaching a decision. A party with a direct interest may appear before the panel to provide evidence or in some cases, ask the panel to conduct a paper review of the file which would not require the attendance of any party.

The Appeal Commission also acts as the final level of appeal for victims of crime filed under the Criminal Injuries Compensation Act (for claims filed before 1999) and the Victim's Rights and Consequential Amendments Act (for claims filed after 1999).



Roger Lafrance
Acting Registrar

Method of Appeal

Appeals can be heard in one of three forums. At appeal, however, the Chief Appeal Commissioner has the final authority to determine the most appropriate forum for an appeal.

Non-Oral File Review

An appeal can be decided by a file or paper review if all the issues are easy to understand from the file documents. The parties with an interest in a matter do not appear before the Appeal Panel. The panel reaches a decision after it conducts a full review of the file documentation and any evidence submitted in writing by the parties with a direct interest. A written decision is sent to the parties within 60 days of the panel's decision. Some examples of cases commonly decided by file review include:

- most assessment appeals;
- factual matters such as the level of average earnings;
- applications for an increase in permanent partial impairment where no wage loss is involved;
- payment of medical aid/travel expenses; and
- appeals where the facts of the case are not in dispute

Standard Oral Hearing

Standard oral hearings are the most common appeal forum. The panel assigned to the case reads the file documentation and any evidence presented prior to the hearing. The parties with a direct interest in the appeal appear in person to present evidence, either orally or in writing, to the panel. Based on the file documentation, testimony and evidence, the panel may then question the parties about the matters under appeal. After the hearing, the panel will meet to decide the case or request further information. A written decision is provided to the parties within 60 days of the panel's decision. Some examples of cases commonly decided by a standard oral hearing include:

- where additional evidence is to be presented;
- where there is a fatality;
- where serious injury has occurred;
- where an occupational disease is involved;
- where the decision may have an important impact on how WCB policy is interpreted or applied; and
- where the facts are in dispute or credibility is an issue.

Expedited Oral Hearing

Occasionally, oral hearings may be expedited. This means that a decision is given at the end of the hearing and written reasons are provided within 60 days. Some examples of cases decided by an expedited oral hearing are:

- where the Appeal Panel feels an immediate decision is necessary;
- where no additional evidence is required by the panel; and
- applications for periods of retroactive benefits where the claimant has returned to work.



General Hearing/Review Information

- Hearings and reviews are scheduled as soon as parties are fully prepared to proceed.
- A client's access to their file information is governed by section 101(1.1) of the Act, and the employer's access is governed by section 101(1.2). File access generally takes up to six weeks, but can take longer if objections to the release of information are received.
- A court reporter records the proceedings at all oral hearings. After the hearing, a transcript is produced and becomes part of the file record.
- The Appeal Commission provides interpreter services free of charge.
- Any appeal made on frivolous grounds may be subject to a fine under subsection 60(8.7) of the Act.

After An Appeal

The Appeal Commission cannot amend, clarify or change its decision once it has been rendered. This means that once a decision is made, the panel cannot provide further reasons, clarification or explanations for its decision. As well, the panel cannot consider further arguments or submissions by the parties to the appeal once a decision has been made.

The Act provides two limited options for reconsideration of an Appeal Panel decision.

Under section 60.9 of the Act, if a party to an appeal feels the panel has acted outside its authority or has erred in applying Workers' Compensation Legislation, Policy or Regulations, the party can approach the WCB Board of Directors. The party must identify the alleged error made by the panel. If the Board of Directors determines that an error has been made, the Board can stay or set aside the decision and order that the case be re-heard. The WCB is unable to interfere with a decision of the Appeal Commission if it has acted within its jurisdiction.

Under section 60.91(1) of the Act, if a party with a direct interest in a panel's decision acquires new evidence after the hearing, the party may apply to the Chief Appeal Commissioner to request reconsideration of the previous decision.

If the Chief Appeal Commissioner decides that the evidence meets the requirements of the Act, a new hearing on the matter is ordered. The Chief Appeal Commissioner does not have the general power of reconsideration and is unable to consider further arguments about the evidence that was before the original panel.

Nature of New Evidence

Section 60.91(2) describes the nature of the evidence and states:

The Chief Appeal Commissioner may direct the Appeal Commission to reconsider its previous decision where the Chief Appeal Commissioner considers that the evidence referred to in subsection (1) is substantial and material to the decision, and

- a did not exist at the time of the previous hearing before the appeal commission, or
- b was not known to the applicant at the time of the previous hearing before the appeal commission and could not have been discovered through the exercise of due diligence.



About the Full Time Commissioners

The Chief Appeal Commissioner and full and part time commissioners representing workers, employers and the public interest are appointed by the

Lieutenant Governor in Council.

There are currently four full-time commissioners.



From left to right:

Deborah Vivian

Chief Appeal Commissioner

Rod Enskes

Employers' Commissioner

Robert MacNeil

Workers' Commissioner

Allan Finkel

Public Interest Commissioner

About the Part Time Commissioners

As of December 31, 1999, the Appeal Commission had a roster of 13 part-time appeal commissioners, five representing the public interest and four representing workers and employers respectively. The services of the part-time commissioners are used when full-time commissioners are in conflict on a case, for vacation relief, when workloads increase and to maintain their level of expertise.



Kaye Dunlop, Q.C.
Part Time Commissioner
Representing Public Interest
General Counsel Several First
Nation Organizations In Manitoba



Bernard Campeau
Part Time Commissioner Representing
Public Interest • Realtor, Century 21
Carrie Realty Ltd. The Appeal
Commission welcomed the
appointment of Mr. Campeau in 1999



Wendel McConnell
Part Time Commissioner
Representing Public Interest
Financial Planner



Patrick McCullough
Part Time Commissioner
Representing Public Interest
Business Owner



Roger Cathcart
Part Time Commissioner
Representing Public Interest
Past Secondary School
Principal and Faculty Advisor
for The University of
Manitoba



Chris Monk
Part Time Commissioner
Representing Workers
Union Representative, Pulp,
Paper and Lumber Industry



Bob Malazdrewich
Part Time Commissioner
Representing Workers
Education Representative, Canadian
Union of Public Employees,
Manitoba Regional Office



Marla Niekamp
Part Time Commissioner
Representing Workers
Labour Relations Officer,
Manitoba Nurses' Union



Bill Leake
Part Time Commissioner Representing Workers
Business Agent/Assistant Training Co-Ordinator,
The United Association of Journeymen Apprentices
of the Plumbing & Pipefitting Industry of the United
States & Canada, Local 254



Paul Challoner
Part Time Commissioner
Representing Employers
Regional Manager, Eecol
Electric Ltd.



Edna Krosney
Part Time Commissioner
Representing Employers
President EXL Transportation
& Logistics Services



Herb Middlestead
Part Time Commissioner
Representing Employers
Past President, Winnipeg
Chamber Of Commerce, Past
Vice Chair - Red River College
Canadian Director Of Us Too
International



George Tsouras
Part Time Commissioner
Representing Employers
President, Brannigan's
Development Group

Office of the Registrar Staff



The administrative staff supports both the Appeal Commission and Medical Review Panels.

STANDING FROM LEFT TO RIGHT

Stephanie Michalow - Photography Clerk, Diane Daignault - Office Administrator, Bonnie Miller - Reception/Secretary, Dr. Brian Onoferson - Medical Advisor, Shannon Clarke - Audit/Performance Coordinator

SITTING FROM LEFT TO RIGHT

Marg Semler - Scheduling Coordinator, Roger Lafrance - Appeal Registrar, Phyllis Kastalanych - Administrative Assistant

Highlights

■ In May, the Appeal Commission relocated to new office space at 220-330 St. Mary Avenue. The new space includes a second hearing room to accommodate two appeal hearings or an appeal hearing and a medical review panel, and a larger examination room.

■ The Appeal Commission launched its web site, providing access to general information regarding the Appeal Commission, and access to all public decisions from 1999 onwards with a searchable index based on issue appealed. The web site also allows appeal applications to be filed by e-mail.

■ The Medical Review Panel Reporting System was re-engineered to provide enhanced reporting capabilities. Both the Medical Review Panel Reporting System and the Appeal Reporting System were upgraded during the latter part of 1999 to ensure Y2K compliance.

■ In 1999 Mr. Bernard J. Campeau was appointed as a part-time appeal commissioner representing the public interest.

■ No cases were ordered reheard by the WCB under Section 60.9 of the Act.

■ The courts did not overturn any Appeal Commission decisions in 1999. In one instance, the Court of Queen's Bench upheld the Appeal Panel's decision and dismissed the claimant's application for Judicial Review.

■ In October, the Chief Appeal Commissioner was an invited speaker at the 1999 International Conference, "Best Practices in Administrative Justice", sponsored by the Council of Canadian Administrative Tribunals (CCAT) in Vancouver, BC. The Chief Appeal Commissioner presented on the topic of "Flexibility within the Administrative Tribunal".

■ In October, the Chief Appeal Commissioner moderated at the Canadian National Conference on Victim's Rights/Criminal Injuries hosted in Edmonton, Alberta.

■ The 1998 Appeal Commission Annual Report won 2nd place in the American Association of State Compensation Insurance Funds (AASCIF) 1999 Publications Awards Contest.

Commissioner Workshops

Continuing Education



Full and part-time appeal commissioners attend workshops throughout the year on topics related to workers compensation and administrative tribunals. As part of their training, workshops were held in 1999 on:

- Vocational Rehabilitation
- Decision Writing
- Permanent Partial Impairments
- The new Victims' Rights legislation (effective January 1999)
- Employer Services
- Definition of Accident
- Non specific injuries and occupational disease
- Flexibility within the Administrative Tribunal



In addition to the workshops, the full-time commissioners participated in the following external training:

- 1999 International Conference of the Council of Canadian Administrative Tribunals (BC)
- Hearing Skills for Administrative Tribunal Members (BC)
- 1999 Association of Workers Compensation Boards of Canada Annual Congress (NWT)
- 1999 National Conference on Provincial Victims of Crime Compensation Schemes (AB)

Appeal Commission *Statistics*

Total Appeals

	YEAR ENDING 1999	YEAR ENDING 1998	YEAR ENDING 1997
TOTAL APPEALS			
Appeals carried forward from previous year	40	35	49
Panel hearings held (by appeal)	116	127	171
Panel reviews held (by appeal)	56	72	80
Cases in Process	[20]	[40]	[35]
Cases Adjourned	[6]	[9]	[0]
TOTAL APPEALS DECIDED	188	185	265
Appeals Accepted	57	42	85
Appeals Partially Accepted	17	19	20
Appeals Not Accepted	112	124	160
TOTAL APPEALS DECIDED	186	185	265
Percentage Accepted	30.7%	22.7%	32.0%
Percentage Partially Accepted	9.1%	10.3%	7.0%
Percentage Not Accepted	60.2%	67.0%	61.0%

*excludes Criminal Injuries/Victims Rights appeals

Post Hearing Activities (Cases in process)

	YEAR ENDING 1999	YEAR ENDING 1998	YEAR ENDING 1997
Cases awaiting further information requested by the Panel	13	13	14
Cases awaiting decision	3	7	8
Cases decided but not communicated	4	20	13
TOTAL CASES IN PROCESS	20	40	35

Total Claimant Appeals

	YEAR ENDING 1999	YEAR ENDING 1998	YEAR ENDING 1997
Appeals Accepted	50	37	81
Appeals Partially Accepted	17	17	20
Appeals Not Accepted	93	106	133
TOTAL CLAIMANT APPEALS	160	160	234
Percentage Accepted	31.3%	23.1%	35.0%
Percentage Partially Accepted	10.6%	10.6%	8.0%
Percentage Not Accepted	58.1%	66.3%	57.0%
Number of claimants represented by:			
Legal Counsel	27	19	27
Union Representative	39	23	47
Worker Advisor	38	52	89
Advocates	16	14	17
Self Representation	39	47	51
Other	1	5	3
TOTAL	160	160	234

Total Employer Appeals

	YEAR ENDING 1999	YEAR ENDING 1998	YEAR ENDING 1997
Appeals Accepted	7	5	4
Appeals Partially Accepted	0	2	0
Appeals Not Accepted	19	18	27
TOTAL EMPLOYER APPEALS	26	25	31
Percentage Accepted	26.9%	20.0%	13.0%
Percentage Partially Accepted	0%	8.0%	0%
Percentage Not Accepted	73.1%	72.0%	87.0%
Number of employers represented by:			
Legal Counsel	0	0	4
Advocate	7	8	5
Employer Agent	14	13	19
Self Representation	5	4	3
TOTAL	26	25	31

Breakdown of Employer Appeals to Claims/Rehabilitation issues

	YEAR ENDING 1999	YEAR ENDING 1998	YEAR ENDING 1997
Appeals Accepted	6	3	3
Appeals Partially Accepted	0	2	0
Appeals Not Accepted	15	17	18
TOTAL	21	22	21
Percentage Accepted	28.6 %	13.6 %	14.0 %
Percentage Partially Accepted	0 %	9.1 %	0 %
Percentage Not Accepted	71.4 %	77.3 %	86.0 %

Breakdown of Employer Appeals to Assessment Issues

	YEAR ENDING 1999	YEAR ENDING 1998	YEAR ENDING 1997
Appeals Accepted	1	2	1
Appeals Partially Accepted	0	0	0
Appeals Not Accepted	4	1	9
TOTAL	5	3	10
Percentage Accepted	20.0 %	66.7 %	10.0 %
Percentage Partially Accepted	0 %	0 %	0 %
Percentage Not Accepted	80.0 %	33.3 %	90.0 %

Total Appeals by Case Type

Claims

	YEAR ENDING 1999	YEAR ENDING 1998	YEAR ENDING 1997
Appeals Accepted	52	37	77
Appeals Partially Accepted	16	19	19
Appeals Not Accepted	103	117	145
TOTAL	171	173	241
Percentage Accepted	30.4 %	21.4 %	32.0 %
Percentage Partially Accepted	9.4 %	11.0 %	8.0 %
Percentage Not Accepted	60.2 %	67.6 %	60.0 %

Rehabilitation

Appeals Accepted	4	3	5
Appeals Partially Accepted	1	0	1
Appeals Not Accepted	5	6	7
TOTAL	10	9	13
Percentage Accepted	40.0 %	33.3 %	38.0 %
Percentage Partially Accepted	10.0 %	0 %	8.0 %
Percentage Not Accepted	50.0 %	66.7 %	54.0 %

Assessments

Appeals Accepted	1	2	2
Appeals Partially Accepted	0	0	0
Appeals Not Accepted	4	1	9
TOTAL	5	3	11
Percentage Accepted	20.0 %	66.7 %	18.0 %
Percentage Partially Accepted	0 %	0 %	0 %
Percentage Not Accepted	80.0 %	33.3 %	82.0 %

TOTAL CASES DECIDED	186	185	265
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Service Levels

The Service Level Report was instituted in 1997. This tracking system allows the Office of the Registrar to review the time it takes an appeal to move through the appeal process. Service levels are reviewed at various stages of the appeal process to identify delays and to determine if administrative improvements can be made.

The Appeal Commission personally contacts all interested parties with respect to the scheduling of hearings. This initiative continues to keep the number of rescheduled hearings to a minimum. Our rescheduled

rate in 1999 was reduced to 10.8% from 16.5% in 1998. Historically, the Appeal Commission has been able to schedule a hearing or review within six weeks of receiving an appeal. However, it was found that this does not allow sufficient time for the parties to be fully prepared.

An Appeal Panel must publish its decision within 60 days following the conclusion of a hearing, according to Regulation. A hearing is considered to have concluded once the panel obtains the necessary information to allow it to make a decision.

Service Level Statistics

(based on decisions published as of Dec. 31, 1999)

	YEAR ENDING 1999	YEAR ENDING 1998	YEAR ENDING 1997
Average time from date appeal received to date of hearing	9.64 wks	9.62 wks	8.78 wks
Average time from hearing date to decision published	9.24 wks	8.98 wks	9.41 wks
Average time from date of decision to decision published	4.63 wks	4.25 wks	3.78 wks
TOTAL TIME FROM DATE APPEAL RECEIVED TO DECISION PUBLISHED*	18.88 wks	18.60 wks	18.18 wks

*Includes all cases where the panel did not make a decision immediately after the hearing/review due to a request for additional information.

Reconsiderations under Section 60.91 of the Act

	1999	1998	1997
Number of Requests Received	29	44	32
Reconsiderations Granted	0	0	1
Referred back to the WCB to address new issues identified by the Chief Appeal Commissioner/designate	2	0	0

File Access Appeals

	1999	1998	1997
Claimant appeals	8	N/A	N/A
Employer appeals	0	N/A	N/A
TOTAL FILE ACCESS APPEALS	8	N/A	N/A

Tracking of this statistic commenced in 1999

Criminal Injuries/Victims Rights Appeals

	1999	1998	1997
Appeals Accepted	0	1	0
Appeals Partially Accepted	0	1	0
Appeals Not Accepted	1	2	4
TOTAL APPEALS	1	4	4
Percentage Accepted	0 %	25.0 %	0 %
Percentage Partially Accepted	0 %	25.0 %	0 %
Percentage Not Accepted	100 %	50.0 %	100 %

About Medical Review Panels



Dr. C.H. Murphy

Medical Review Panel
Chairperson

Medical Review Panels enable the WCB or Appeal Commission to obtain impartial, independent advice on medical matters that affect a client's right to compensation.

Section 67(3) of the Act allows the WCB or Appeal Commission the discretion to refer a medical

matter to a Medical Review Panel for an independent opinion.

Section 67(4) of the Act establishes the right of an injured worker to a Medical Review Panel if there is a difference of opinion on a medical matter between the worker's physician and a WCB medical officer, which affects entitlement to compensation. This provision mandates the convening of a Medical Review Panel if a difference of opinion, as defined by Section 67(1) of the Act exists.

A Medical Review Panel is comprised of a Chairperson and two panel members. The Minister responsible for the Act appoints the Chairperson and the alternate Chairperson. The worker and employer select the other two panel members from a list of physicians provided by the College of Physicians and Surgeons, who specialize in the matter under consideration.



In addition, specialist consultants in other fields may be invited to attend and assist the panel.

Physicians who have treated the worker, who examine workers on behalf of the employer, or who have acted as consultants in the treatment of the worker are not eligible to serve on the Medical Review Panel.

The independent nature of the Medical Review Panel process ensures that the medical advice obtained is impartial and is based upon the facts of the case as documented on file and as discovered through the process.



Dr. Mallory Fast

Medical Review Panel
Chairperson
(Alternate)

The findings of a Medical Review Panel are considered evidentiary in nature and are not binding upon the WCB or the Appeal Commission.

Medical Review Panel Statistics

	YEAR ENDING 1999	YEAR ENDING 1998	YEAR ENDING 1997
Total MRP's Convened	40	50	62
MRP's Awaiting Scheduling	6	9	18
INITIATED BY			
Primary Adjudication	25	18	20
Review Office	8	27	35
Appeal Commission	7	5	7
CONVENED UNDER			
Subsection 67(3)	18	18	17
Subsection 67(4)	22	32	45

Service Levels

The scheduling of a Medical Review Panel is a complex process where a panel of specialists and consultants are brought together on a specific day to meet, examine a client and answer questions placed to them. This involves arranging a time convenient to all parties, the preparation of documents and the publishing of the Medical Review Panel findings.

The Medical Review Panel Reporting System [MRPRS] was first implemented in 1996 and underwent significant enhancements in 1999. The MRPRS captures specific data, allowing the Office of the Registrar to track a case through the various stages of the process.

	1999	1998	1997
Average time from date of request to date MRP held	13.8 wks	12.53 wks	14.1 wks
Average time from date of MRP to date when report is published	5.25 wks	4.1 wks	4.3 wks
Average time from date of request to when report is published	19.04 wks	16.32 wks	18.75 wks

Medical Review Panels Convened by Area of Medical Speciality

	1999	1998	1997
Medical Oncology	1	0	0
Neurology	4	7	3
Ophthalmology	1	0	0
Orthopedic Surgery	25	36	44
Orthopedic Surgery/Psychiatry	1	0	0
Physical Medicine & Rehabilitation	4	1	0
Psychiatry	1	0	4
Respiratory Medicine	1	0	1
Rheumatology	1	1	0
Urology	1	0	1
Cardiology	0	3	0
Neurosurgery	0	1	1
Respiratory Medicine/Occupational Medicine	0	1	0
Internal Medicine	0	0	2
Dermatology	0	0	1
General Surgery	0	0	1
Neurology/Orthopedic Surgery	0	0	1
Neurology/Respiratory Medicine	0	0	1
Orthopedic Surgery/Physical Medicine & Rehabilitation	0	0	1
Physical Medicine & Rehabilitation/Neurology	0	0	1
TOTALS	40	50	62